



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: LISK et al. )

Serial No.: 10/732,890 )

Filed: December 10, 2003 )

For: **"DISPOSABLE SEPARATOR FOR  
SEPARATING THE EPITHELIUM  
LAYER FROM THE CORNEA OF AN  
EYE"** )

Group Art Unit: 3731

Examiner: N/A

August 17, 2004

**PETITION TO ACCEPT SIGNATURE BY CO-INVENTOR ON BEHALF OF INVENTOR  
WHO REFUSES TO JOIN IN APPLICATION OR CANNOT BE REACHED  
(37 C.F.R § 1.47(a))**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

GARDNER GROFF, P.C.  
Paper Mill Village, Building 23  
600 Village Trace, Suite 300  
Marietta, GA 30067

This is a Petition under 37 C.F.R §1.47(a) to accept signature of the Declaration by joint inventors on behalf of Ming-Kok Tai, a non-signing joint inventor who cannot be found or reached after diligent effort.

This Petition is accompanied by the \$130 fee set forth in 37 C.F.R §1.17(h). The Commissioner is authorized to charge any additional fees due or credit any overpayment to Deposit Account 50-1513.

The Declaration signed by the available joint inventors is enclosed, with the signature line for the non-signing inventor left blank, and is to be treated as having been signed by the available joint inventors on behalf of the non-signing inventor. MPEP §409.03(a)(A).

The last known address for the non-signing joint inventor is:


Ming-Kok Tai  
999 Cavesson Terrace  
Lawrenceville, Georgia 30045

The following statement and attachments provide proof of the pertinent facts supporting this Petition:

- (1) On December 23, 2003, the undersigned, acting as counsel for the original assignee of this application, forwarded copies of the application to all inventors (including the non-signing joint inventor Ming-Kok Tai), along with an inventors' declaration for signature by each inventor. A copy of the email correspondence forwarding these materials is attached as Attachment 1 hereto.
- (2) A follow-up reminder was forwarded to Mr. Tai on April 28, 2004, again requesting signature of the inventors' declaration. A copy of this correspondence is attached as Attachment 2 hereto.
- (3) A further attempt to secure execution of the inventors' declaration by Mr. Tai was made on July 15, 2004. Copies of this correspondence, along with tracking information from FedEx and the US Postal Service regarding delivery of the correspondence are attached as Attachment 3 hereto.
- (4) In addition to these written communications, undersigned counsel has attempted on numerous occasions to contact Mr. Tai by telephone, leaving numerous voicemails requesting a call back, and paging Mr. Tai leaving the undersigned's return phone number. On one instance, Mr. Tai did call back, but the call was disconnected or Mr. Tai hung up very shortly after undersigned counsel identified himself and the purpose of the call. Subsequent calls to Mr. Tai have not been returned.
- (5) To date, none of these attempts to reach Mr. Tai and obtain his signature have been successful.

Being warned that willful false statements and the like are punishable by fine or imprisonment or both (18 U.S.C. §1001), and may jeopardize the validity of the application or any patent issuing thereon, all statements made herein of my own knowledge are true, and all statements made on information and belief are believed to be true.

Respectfully submitted,

  
Bradley K. Groff  
Registration No. 39,695

GARDNER GROFF, P.C.  
Paper Mill Village, Bldg 23  
600 Village Trace, Ste. 300  
Marietta, GA 30067  
Tel: 770/984-2300  
Fax: 770/984-0098

**Certificate of Mailing (37 C.F.R. §1.8)**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.

  
Bradley K. Groff

August 17, 2004  
Date

**Bradley K. Groff**

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**From:** Bradley K. Groff [REDACTED]  
**Sent:** Tuesday, December 23, 2003 8:32 AM  
**To:** Scott Hampton (E-mail); James Lisk (E-mail); Ming Tai (E-mail)  
**Cc:** rob gorman (E-mail)  
**Subject:** Patent Application Documents for signature

James, Ming and Scott,

This is regarding the patent application for the disposable separator/plastic blade invention (CIBA ref. SU/V-32780A/CVA). There are four documents attached:

- 1) the final application as it was filed December 10.
- 2) the drawings for the application.
- 3) an assignment.
- 4) an inventors' declaration.

At your earliest convenience, please sign and date the assignment and the declaration where indicated, and return the signed papers to me for filing with the patent office. If there are any questions, please give me a call.

Thank you,  
Brad Groff

Gardner Groff, P.C.  
Paper Mill Village, Building 23  
600 Village Trace, Suite 300  
Marietta, GA 30067  
phone: (770) 984-2300  
fax: (770) 984-0098  
bgroff@gardnergroff.com

\*\*\*\*\*

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Patent App)....



0004.pat (Formal  
Drawings).pdf...



0008.pat  
(Assignment).doc



0009.pat  
(Declaration).doc



# GARDNER GROFF

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JOHN W. GREENWALD  
DANIEL J. SANTOS  
JOHN M. HARMAN\*  
MICHELLE E. KANDCER  
PATRICIA L. ADES\*

\* OTHER BARS ONLY

April 28, 2004

Ming-Kok Tai  
999 Cavesson Terrace  
Lawrenceville, Georgia 30045

## URGENT REMINDER!

Re: U.S. Non-Provisional Patent Application for  
**"DISPOSABLE SEPARATOR FOR SEPARATING THE  
EPITHELIUM LAYER FROM THE CORNEA OF AN EYE"**

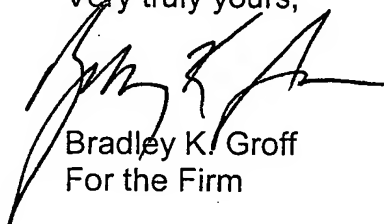
Serial No.: 10/732,890  
Filing Date: December 10, 2003  
Our File No.: 2C03.1-141  
CIBA File No.: SU/V-32780/CVA

Dear Mr. Tai:

Enclosed are a Declaration/Power of Attorney and an Assignment which need to be signed by you where indicated and returned to me for filing with the Patent Office for the above-referenced invention. A copy of the application was previously sent to you. I have enclosed a stamped return envelope for your convenience. The deadline for submitting the signed documents to the Patent Office is **May 18, 2004.**

As always, please give me a call if you have any questions or concerns.

Very truly yours,



Bradley K. Groff  
For the Firm

BKG/rjh  
Enclosures

W:\Client Files\BKG Clients\2C03-CIBA\2C03.1-141 Disposable Separator for Separating the Epithelium Layer from the Cornea of an Eye (NonProv)0015.tr (Dec & Assign to Mr. Tai).wpd



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JOHN W. GREENWALD  
DANIEL J. SANTOS  
JOHN M. HARMAN\*  
MICHELLE E. KANDCER  
PATRICIA L. ADES\*

\* OTHER BARS ONLY

July 15, 2004

Mr. Ming-Kok Tai  
999 Cavesson Terrace  
Lawrenceville, Georgia 30045

***Via Certified Mail  
Return Receipt Requested  
And FedEx***

Re: [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
&  
U.S. Non-Provisional Patent Application for  
"DISPOSABLE SEPARATOR FOR SEPARATING THE  
EPITHELIUM LAYER FROM THE CORNEA OF AN EYE"  
Serial No.: 10/732,890  
Filing Date: December 10, 2003  
&  
Our File No.: 2C03.1-141  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
&  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Dear Mr. Tai:

I have made numerous attempts to contact you by telephone and by mail regarding the above patent applications in which you were named as an inventor. Most of these applications are no longer owned by your former employer, Ciba Vision Corporation, and the new owner has asked me to again request your cooperation in signing the patent documents that I have previously forwarded you.

As you are likely aware, your employment agreement with CIBA Vision Corporation (copy enclosed) specifies that any inventions made during your employment are to be owned by CIBA (Section 3(b)(i)), and requires you to execute documents necessary in connection with any patent applications related to those inventions (Section 3(c)). Your continued refusal to sign the patent documents that I have forwarded you several times now constitutes a clear breach of these contract provisions in the Employment Agreement that you entered with CIBA Vision.

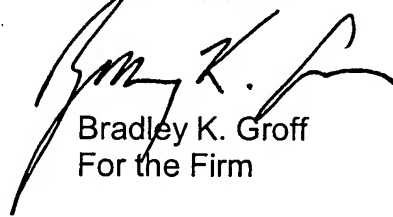
Mr. Ming-Kok Tai  
July 15, 2004  
Page -2-

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Pursuant to the terms of the Agreement, your continued breach may subject you to monetary damages and injunctive relief (Section 5a). The new owner of these patent applications, however, would prefer to secure your voluntary cooperation, rather than having to enforce the terms of your Employment Agreement with Ciba.

I am enclosing additional copies of the documents requiring your execution. Please sign where indicated and return these documents to me in the enclosed envelope by no later than **Friday, July 30, 2004**, so that we can avoid having to take further actions to enforce the terms of your Employment Agreement.

Very truly yours,



Bradley K. Groff  
For the Firm

BKG/rjh  
Enclosures



## Track & Confirm

### Current Status

You entered 7002 3150 0001 1355 6250

We attempted to deliver your item at 1:18 pm on July 19, 2004 in LAWRENCEVILLE, GA 30045 and a notice was left. It can be redelivered or picked up at the Post Office. If the item is unclaimed, it will be returned to the sender. Information, if available, is updated every evening. Please check again later.

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Sent To **Ming-Kok Tai**  
 Street, Apt. No.,  
 or PO Box No. **999 Cavesson Terrace**  
 City, State, ZIP+4 **Lawrenceville, GA 30045**

PS Form 3800, June 2002 See Reverse for Instructions

BR • MARIETTA, GA 30067  
 JUL 15 2004  
 1-71-1  
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TO:

~~MRS. KOK KIN LEE  
999 GLESSON TRACE  
LAWRENCEVILLE, GA 30045~~

RETURN RECEIPT  
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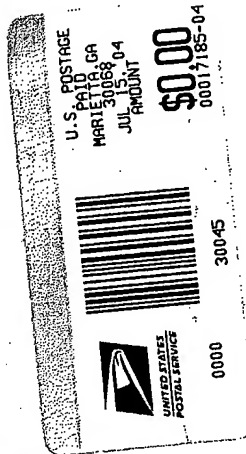
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1st NOTICE 7-19-04  
2nd NOTICE 7-30-04  
RETURNED 8-6-04

*NRW 200*

RETURN RECEIPT  
REQUESTED

1 From Please print and press hard

Date 7-15-04 Sender's FedEx Account Number [REDACTED]

Sender's Name Brad Groff

Phone ( 770 ) 984-2300

Company GARDNER GROFF, P.C.

Address 600 VILLAGE TRCE NE STE 300

City MARIETTA

State GA ZIP 30067-4069

2 Your Internal Billing Reference

2003-9-010

3 To Recipient's Name

Ming-kok Tai

Company

999 Cavesson Terrace

Recipient's Address

Lawrenceville

Address

City Lawrenceville State GA ZIP 30045

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0215

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☐ FedEx Priority Overnight Next business morning\*  
☒ FedEx Standard Overnight Next business afternoon\*  
☐ FedEx First Overnight Earliest next business morning delivery to select locations\*

☐ FedEx 2Day Second business day\*  
☐ FedEx Express Saver Third business day\*

4b Express Freight Service

☐ FedEx 1Day Freight\* Next business day\*\*  
☐ FedEx 2Day Freight Second business day\*\*  
☐ FedEx 3Day Freight Third business day\*\*

\* Call for Confirmation.

5 Packaging

☒ FedEx Envelope\*  
☐ FedEx Pak\*  
☐ FedEx Small Pak  
☐ FedEx Large Pak and FedEx Surety Pak  
☐ FedEx Box  
☐ FedEx Tube  
☐ Other

6 Special Handling

☐ SATURDAY Delivery Available ONLY for FedEx Priority Overnight, FedEx 2Day, FedEx First Overnight, and FedEx Freight to select ZIP codes  
☐ HOLD Weekday at FedEx Location NOT Available for FedEx First Overnight  
☐ HOLD Saturday at FedEx Location Available ONLY for FedEx Priority Overnight and FedEx First Overnight to select locations  
Does this shipment contain dangerous goods? ☒ No ☐ Yes  
As per attached Shipper's Declaration not required  
Dangerous goods (including Dry Ice) cannot be shipped in FedEx packaging.  
☐ Dry Ice  
☐ Dry Ice, 3 UN 1845  
☐ Cargo Aircraft Only

7 Payment Bill to

☒ Sender  
☐ Recipient  
☐ Third Party  
☐ Credit Card  
☐ Cash/Check

FedEx Acct. No. Credit Card No.

Total Packages Total Weight Total Declared Value\*  
\$ .00

1Our liability is limited to \$100 unless you declare a higher value. See back for details.


8 Sign to Authorize Delivery Without a Signature

By signing you authorize us to deliver this shipment without obtaining a signature and agree to indemnify and hold us harmless from any resulting claims.

SF - Rev. Date 11/03 \* Per 15079 - © 1994-2003 FedEx - PRINTED IN U.S.A.

466

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Tracking number	846354117364	Reference number	2003 9-010
Signed for by	14032996	Delivered to	Recipient
Ship date	Jul 15, 2004	Delivery location	LAWRENCEVILLE GA
Delivery date/time	Jul 16, 2004 2:20 pm	Service type	Standard Envelope

Date/Time	Status	Location	Comments
Jul 16, 2004	2:20 pm	Delivered	LAWRENCEVILLE GA
			No signature required - release waiver on file
	2:20 pm	Delivered	LAWRENCEVILLE GA
			No signature required - release waiver on file
	7:51 am	On FedEx vehicle for delivery	NORCROSS GA
Jul 15, 2004	7:34 am	Arrived at FedEx Destination Location	NORCROSS GA
	11:05 pm	Arrived at FedEx Ramp	ATLANTA GA
	9:46 pm	Left FedEx Origin Location	MARIETTA GA
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